

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**LAWRENCE FULTZ, SR. INDIVIDUALLY AND ON BEHALF
OF THE WRONGFUL DEATH BENEFICIARIES OF
JAYNELL FULTZ, DECEASED**

PLAINTIFF

V.

CIVIL ACTION NO.: 3:21-cv-00497-DPJ-FKB

**MP CARRIERS, INC., LAITH MOHAMMAD ALARABIAT
AND JOHN DOES 1-10**

DEFENDANTS

NOTICE OF REMOVAL

COME NOW, through undersigned counsel, Laith Mohammad Alarabiat defendant in the above-captioned matter, and pursuant to 28 U.S.C. § 1446, with full reservation of all defenses, objections and rights, give notice of removal of this suit from the Circuit Court of Lauderdale County, State of Mississippi, to the United States District Court for the Southern District of Mississippi, Northern Division, for the reasons set forth below:

1.

This action was commenced on May 27, 2021, by the filing of an original Complaint by Lawrence Fultz, Sr. Individually and on behalf of the Wrongful Beneficiaries of Jaynell Fultz, Deceased, in the Circuit Court of Lauderdale County, Mississippi, Docket No. 21 CV069 (CW), in which MP Carriers, Inc., and Laith Mohammad Alarabiat are named as defendants. The original Complaint was filed on May 27, 2021, and Summons directed to MP Carriers, Inc., and Laith Mohammad Alarabiat were issued to Plaintiff on May 27, 2021. Upon information and belief, the Complaint and Summons have not been served upon MP Carriers, Inc. Laith Mohammad Alarabiat was served with the Summons and Complaint on July 8, 2021. Therefore, this Notice of

Removal is filed within thirty (30) days of service upon Laith Mohammad Alarabiat, and the Defendants have not yet filed Answers to the original Complaint. A copy of the entire record from the Lauderdale County Circuit Court, Mississippi, is filed herewith. (See: Exhibit “A”).

2.

The action, which is pending in State Court, is of a civil nature and was brought by Plaintiff Lawrence Fultz, Sr. Individually and on behalf of the Wrongful Beneficiaries of Jaynell Fultz, Deceased, seeking damages for an alleged Jaynell Fultz’s alleged wrongful death following a motor vehicle accident with the tractor trailer operated by Laith Mohammad Alarabiat.

3.

The above entitled cause is a civil action which may be removed to this Court by Defendants pursuant to the provisions of 28 U.S.C. § 1441 as this court has original jurisdiction of this claim under 28 U.S.C. § 1332 “Diversity of Citizenship” in that:

- (a) According to the Plaintiff’s Complaint, Plaintiff Lawrence Fultz, Sr., is a resident of and domiciled in the Orleans Parish, State of Louisiana, and Jaynell Fultz, deceased, was a resident of and domiciled in Nevada, at the time of her death;
- (b) Defendant MP Carriers, Inc. is a corporation formed under the laws of the State of Illinois with its principal place of business in Cook County, Illinois; and
- (c) Defendant Laith Mohammad Alarabiat is a resident of and domiciled in Hillsborough County, Florida.

4.

Defendant Alarabiat has reason to believe that the captioned and numbered cause is a civil action wherein the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, as the Plaintiff has specifically alleged entitlement to an unspecified amount of

punitive damages. “It is well-settled that claims for punitive damages are included in calculating the amount in controversy.” *Sun Life Assurance Co. v. Fairley*, 485 F. Supp. 2d 731, 735 (S.D. Miss. 2007) (citing *Brasell v. Unumprovident Corp.*, 2001 U.S. Dist. LEXIS 26672, at *2 (N.D. Miss. Oct. 25, 2001) (citing *St. Paul Reins. Co. v. Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998); *Myers v. Guardian life Ins. Co.*, 5 F.Supp. 2d 423, 428-29 (N.D. Miss. 1998); *Atlanta Cas. Co. v. Jones*, 1991 WL 701089, at * 2 (S.D. Miss. Feb. 11, 1991). “As noted in *Brasell*, federal courts in Mississippi have consistently held that a claim for an unspecified amount of punitive damages is deemed to exceed the federal jurisdictional minimum.” *Id.* (citing *Brasell*, 2001 U.S. Dist. LEXIS 26672, at *2) (citing *St. Paul*, 134 F.3d at 1255; *Marcel v. Pool Co.*, 5 F.3d 81, 84-85 (5th Cir. 1993); *Allstate Ins. Co. v. Hilbun*, 692 F.Supp. 698, 701 (S.D. Miss. 1988)).

5.

Plaintiff’s claim is a cause removable from the State Court to the District Court of the United States under the terms of 28 U.S.C. § 1441 in that it is a civil action wherein the matter in controversy exceeds the sum or value of \$75,000.00 exclusive of interest and costs and is between citizens of different states.

6.

The United States District Court for the Southern District of Mississippi, Northern Division, encompasses the district and division where the State Court action is now pending.

7.

Attached hereto and filed herewith is a copy of all process, pleadings and orders served in this action.

8.

Promptly after filing of this Notice of Removal, written notice thereof will be given to Plaintiff and a copy of this Notice of Removal will be filed with the Clerk of Court of the Circuit Court of Lauderdale County, Mississippi, as provided by law.

9.

This Notice of Removal is being filed in this Court within thirty (30) days of service of the Petition on Defendants. Thus, Defendant herein maintain that the time within which to file this Notice of Removal in order to properly remove this case to this Honorable Court has not yet expired.

11.

Based on the foregoing, Defendant Laith Mohammad Alarabiat respectfully removes the entitled case to this Honorable Court and respectfully submits that removal is proper.

WHEREFORE, premises considered, Defendant Laith Mohammad Alarabiat pray that the captioned and numbered cause, pending in the Circuit Court for Lauderdale County, State of Mississippi, be removed therefrom and to the Honorable United States District Court in and for the Southern District of Mississippi, Northern Division, as provided by law; that this Court enter such orders and issue such process as may be proper to bring before it copies of all records and proceedings in the aforementioned State Court suit, and thereupon proceed with this suit as if it had originally commenced in this Court.

Respectfully Submitted

LAW OFFICES OF JULIE E. VAICIUS

/s/ Philip G. Smith

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Attorney for Defendant

Laith Mohammad Alarabiat

CERTIFICATE OF SERVICE

I HEREBY certify that a true and correct copy of the foregoing Notice of Removal from State Court has been served upon the following persons by UPS and the ECF system on the 28th day of July, 2021, at the addresses shown:

Mrs. Donna Jill Johnson
Clerk of Court
Lauderdale County Circuit Court, Mississippi
500 Constitution Ave.
Meridian, MS 39301
P.O. Box 1005
Meridian, MS 39302-1005
(601) 482-9731
Service via UPS

Mr. Kenneth M. Altman, Esq., (9936)
Morris Bart, Ltd.
1712 15th Street, Ste. 300
Gulfport, MS 39501
(Phone) 228-276-0308
(Fax) 228-865-7885
kaltman@morrisbart.com
Counsel for Plaintiff
Service via the ECF system

/s/ Philip G. Smith
